

HUBERT T. LEE (NY Bar No. 4992145)  
hubert.lee@usdoj.gov  
PHILLIP R. DUPRÉ (DC Bar No. 1004746)  
phillip.r.dupre@usdoj.gov  
Environmental Defense Section  
Environment & Natural Resources Division  
U.S. Department of Justice  
4 Constitution Square  
150 M Street, NE  
Washington, DC 20002  
Telephone (202) 514-1806  
Facsimile (202) 514-8865

*Attorneys for Defendants*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

STATE OF CALIFORNIA, *et al.*,

Plaintiffs,

v.

MICHAEL REGAN<sup>1</sup>, as the Administrator of  
the United States Environmental Protection  
Agency, *et al.*,

Defendants,

and

STATE OF GEORGIA, *et al.*,

Defendant-Intervenors.

Case No. 3:20-cv-03005-RS

**PARTIES' JOINT STATUS REPORT**

Action Filed: May 1, 2020

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<sup>1</sup> Pursuant to Fed. R. Civ. P. 25(d), Michael Regan is automatically substituted in place of Andrew Wheeler.

Pursuant to this Court’s February 17, 2021 order, *see* Dkt. No. 229, Plaintiffs<sup>2</sup>, Defendants (“Agencies”)<sup>3</sup>, and State Intervenor-Defendants<sup>4</sup> (collectively, the “Parties”) hereby submit the following joint status report regarding the status of the Agencies’ review of the Navigable Waters Protection Rule (“NWPR”), 85 Fed. Reg. 22,250 (Apr. 21, 2020), and the Agencies’ plan to seek a further stay and enlargement of existing deadlines. *See* Dkt. No. 229 at 2.

### **I. Status of the Agencies’ Review of the NWPR.**

Since the Court’s February 17, 2021 order staying this proceeding, there have been substantive developments regarding the Agencies’ review of the NWPR. The new Administrator of the EPA, Michael Regan, was sworn in on March 10, 2021. *See* 167 Cong. Rec. S1456 (daily ed. Mar. 10, 2021). The new Administrator and his staff have since been briefed regarding the Rule, and the new administration has been presented with and is weighing various options regarding the Rule. While the Agencies have not yet made a decision regarding whether the NWPR should be maintained, modified, or otherwise reconsidered, the Agencies’ review is active and ongoing.

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<sup>2</sup> Plaintiffs are the States of California, New York, Connecticut, Illinois, Maine, Maryland, Michigan, New Jersey, New Mexico, North Carolina, Oregon, Rhode Island, Vermont, Washington and Wisconsin, the Commonwealths of Massachusetts and Virginia, the North Carolina Department of Environmental Quality, the District of Columbia, and the City of New York.

<sup>3</sup> Defendants are the United States Environmental Protection Agency (“EPA”), EPA Administrator Michael Regan, United States Army Corps of Engineers, and Acting Assistant Secretary of the Army for Civil Works Mr. Taylor N. Ferrell (“Defendants” or “Agencies”). EPA Administrator Michael Regan is automatically substituted for Andrew Wheeler, and Taylor N. Ferrell is automatically substituted for R.D. James, pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

<sup>4</sup> State Intervenor-Defendants are the States of Georgia, West Virginia, Alabama, Alaska, Arkansas, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, and Wyoming.

**II. Plans to Seek a Further Stay or Enlargement of Deadlines.**

The Agencies intend to file a motion to continue the stay of this proceeding for another 60 days and to extend the existing litigation deadlines by an additional period of 75 days. The Parties have met and conferred regarding this proposed motion to further continue the stay and extend existing litigation deadlines. Plaintiffs do not plan to oppose the motion; State Intervenor-Defendants have stated they will oppose the motion.

Dated: April 8, 2021

Respectfully submitted,

/s/Hubert T. Lee

HUBERT T. LEE (NY Bar No. 4992145)  
 PHILLIP R. DUPRÉ (D.C. Bar No. 1004746)  
 U.S. Department of Justice  
 150 M Street, NE Suite 4.1116  
 Washington, D. C. 20002  
 Hubert.lee@usdoj.gov  
 Phillip.r.dupre@usdoj.gov  
 Telephone (202) 514-1806 (Lee)  
 Telephone (202) 616-7501 (Dupré)  
 Facsimile (202) 514-8865

*Attorneys for Defendants*

XAVIER BECERRA  
 Attorney General of California  
 SARAH E. MORRISON  
 ERIC KATZ  
 Supervising Deputy Attorneys General  
 CATHERINE M. WIEMAN  
 ROXANNE J. CARTER  
 JESSICA BARCLAY- STROBEL  
 BRYANT B. CANNON  
 Deputy Attorneys General

/S/ Tatiana K. Gaur

TATIANA K. GAUR  
 Deputy Attorney General

*Attorneys for Plaintiff State of California, by and through Attorney General Xavier Becerra and California State Water Resources Control Board*

CHRISTOPHER M. CARR  
*Attorney General of Georgia*

/s/ Andrew A. Pinson  
Andrew A. Pinson  
*Solicitor General*  
Drew F. Waldbeser  
*Assistant Solicitor General*  
Office of the Attorney General  
40 Capitol Square, S.W.  
Atlanta, Georgia 30334  
Tel: (404) 651-9453  
Fax: (404) 656-2199  
Email: apinson@law.ga.gov

*Counsel for Intervenor State of Georgia*